



ILEG Study Notes 2

The Vienna Formula

The Vienna Formula was devised in the 1960's and 1970's. When the SG received a request to ratify or accede to a treaty, he had a set criteria:

Is the entity:

1) a member of the United Nations

or

2) a member of a specialized agency

or

3) a party to the statute of the ICJ

The SG reported these criteria to the General Assembly in the 1970's and the GA approved the criteria.

Invitations to UN Conferences

Invitation to UN Conferences is open to all states.

The SG uses the Vienna Formula to issue invitations.

Non-members states such as the Vatican (Holy See), Palestine, and free association states (for examples, the Cook Islands) are invited.

The Cook Islands is a member of specialized agencies and has treaty-making capacity.

The other way to be considered a state under the Vienna Formula is to be a party to the statute of the ICJ.

The statute / rules of the ICJ provide for ways that non-members can be party to the statute-- on recommendation of the S.C. (giving conditions) and then upon adoption by the GA.

Switzerland was a party to the ICJ statute for years before it became a member (2002).

Decolonization Process and Observer Status

The Trusteeship Council supervised plebiscites and elections to ensure fairness.

There are no rules regulating on when a state is to become an observer or when an entity is a non-member state.

The Vienna Formula informs the SG on requests for observers in the GA. Sixteen countries were observers which subsequently became members.

The Two Korean states, two German states, and two Vietnamese states participated-- as they were members of specialized agencies.

Non-member observer states are seated after members before other observers in the General Assembly.

Observers did not participate in discussion or speak. They needed permission by the body to speak. Observers were encouraged to speak in the main committees but not in the plenary. Thus, a practice developed. Organizations, national liberation movements, intergovernmental organizations (OAU, AU, EU, Swapo, ANC, PLO) have observer status received via a GA resolution. There are about thirty. Receiving observer status through a GA resolution provided for more rights; it is a mandate from the GA to participate. Switzerland had a nameplate from the SG and needed a special invitation to participate. The GA resolution path to observer status resulted in non-member states becoming members.

The Holy See became an observer in 1964 but received a resolution (like organizations) in 1994, which spelled out its rights of participation.